

SUMMARY OF RESPONSE

Detailed Action

Claim Rejections -35 USC § 103

1. The Examiner states: "Claims 1-3 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yavitz et al. U.S. Patent No. 6,312,450 in view of Rodgers et al. U.S. Patent No. 6455501.

Yavitz et al. disclose a system and method for improving the texture and appearance of patient's skin, the method comprising the steps of: treating a subsurface layer of the skin with a source of energy sufficient to cause stimulation of collagen biosynthesis without thermal damage to the epidermis (see the abstract; col. 2, line 66 to col. 3, line 10; col. 4, lines 62-66; and col. 6, lines 3-5); and applying to the skin a light transport modifier, which in turn helps post treatment healing of tissue (see col. 5, lines 16-19). As to claim 3, Examiner notes that the method for periodic treatment over a given duration, such as days, weeks or months is well known in the medical art.

However, although Yavitz et al. emphasize the importance of shortened healing time, they do not particularly teach the use of a wound healing composition as claimed. Rodgers et al. teach an alternative skin treatment in which a wound healing composition is used. Thus, it would have been obvious to one skilled in the art at the time of the applicant's invention to modify Yavitz et al. in view of Rodgers et al. and use a wound healing composition in order prevent infection and substantially reduce healing time of the tissue being treated."

2. The Examiner states: "Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yavitz et al. in view of Rodgers et al. as applied to claims 1-3 and 7-11 above, and further in view of O'Donnell, Jr. U.S. Patent 6,106,514.

Neither Yavitz et al. nor Rodgers et al. teach the use of mechanical energy to provide the treatment.

O'Donnell, Jr. discloses apparatus and method for treating subsurface layer of skin, the method comprising the steps of applying mechanical energy to tissue being treated. Hence, at the time of the applicant's invention, one skilled in the art would have used mechanical energy, in addition to the photonic energy, so as to enhance treatment of the skin."

///